

APPEAL NO. 010176

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). In Texas Workers' Compensation Commission Appeal No. 002154, decided October 30, 2000, the Appeals Panel remanded this case for the hearing officer to provide the designated doctor, Dr. E, with the appellant's (claimant) medical records; for Dr. E to render a report in compliance with the provisions of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6 (Rule 130.6) and the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides); and for the hearing officer to render a decision which determines the claimant's impairment rating (IR). Following a hearing on remand, the hearing officer determined that the report rendered by Dr. E, after his review of the medical records and use of the proper version of the AMA Guides, is entitled to presumptive weight, and that based on Dr. E's report, the claimant's IR is 14%. The claimant's request for review globally challenges all adverse findings as being against the great weight of the evidence. The response of the respondent (carrier) urges the sufficiency of the evidence to support an affirmance.

DECISION

Affirmed.

As our decision in Appeal No. 002154 reflects, Dr. E examined the claimant prior to rendering his first report but did not have available the records of her treatment in another state, including lumbar spine surgery. Upon remand, the hearing officer forwarded to Dr. E a copy of our decision as well as the claimant's medical and surgical records and asked Dr. E to review these records, reexamine the claimant if necessary, and render another report. Dr. E's report of December 4, 2000, specifies the multiple records he reviewed and states that his IR of 14% remains unchanged and consists of 12% for the claimant's lumbar spine specific disorder under Table 49 (IV)(B) of the AMA Guides, 1% for loss of lumbar range of motion (ROM), and 1% for neurological loss, for a combined total IR of 14%. Dr. E went on to report that he disagreed with the 20% IR of the claimant's treating doctor, Dr. C, which consisted exclusively of ROM impairment of the lumbar spine and the right hip. Dr. E did not view the right hip as a separate injury.

Section 408.125(e) provides, in part, that the report of a designated doctor selected by the Texas Workers' Compensation Commission (Commission) shall have presumptive weight and the Commission shall base the IR on that report unless the great weight of the medical evidence is to the contrary. We are satisfied that the challenged findings in this case are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge